SBCivil Contempt Petition No.84/2004
In
SBCivil Writ Petition No.4314/1992

Brij Gopal
v.
Shri Sanjay Dixit & Ors.

Date of Order :: 19th May, 2006

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. J.L.Purohit, for the petitioner.
Mr. N.M.Lodha, Additional Advocate General.
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This petition for initiating contempt proceedings against the respondents is preferred alleging deliberate and wilful non-compliance of the directions by this Court by order dated 4.11.1997 in SBCivil Writ Petition No.4314/1992.

In brief, the facts of the case are that a loan in a tune of Rs.2,15,000/- was advanced to the petitioner firm by the Rajasthan Financial Corporation. Out of aforesaid amount only a sum of Rs.1,57,200/- was disbursed. The Rajasthan Financial Corporation while exercising powers under Section 29 of the State Financial Corporation Act took over possession of the factory run by the petitioner firm on 7.7.1989. The factory aforesaid was agreed to be sold to M/s Maheshwari Mills Bikaner in the year 1990 with a consideration of Rs.5,25,000/-. The petitioner

then preferred a writ petition before this Court to refund the excess amount due to the petitioner. During pendency of writ petition it was noticed that the sale of the factory to M/s Maheshwari Mills, Bikaner failed and it was again taken over by Rajasthan Financial Corporation. The writ petition preferred by the petitioner was disposed of by this Court by directing the Rajasthan Financial Corporation that the amount whenever is realised by the respondents it shall be refunded to the petitioner to the extent he is entitled to after adjustment of dues of Rajasthan Financial Corporation.

In the instant contempt petition the allegation of the petitioner is that the Rajasthan Financial Corporation has realised the amount and excess amount is lying with it but the same is not paid to the petitioner.

A reply to the contempt petition is filed on behalf of the respondents wherein while denying the allegation on deliberate and wilful non-compliance of the direction given by this Court it is stated that the petitioner is not at all entitled for any amount which is said to be in excess. The relevant portion of the reply filed on behalf of the respondents reads as under:-

> "7.That from the facts narrated above, it is clear that the corporation has sold the unit of M/s. Cee. Tee. the original borrower to M/s. Maheshwari Mills, Bikaner and thereafter, to M/s. Srinath Woollen Mills and again to M/s. Golden Felt and Spinning mills and the deficit left in all the loan recovery action is being taken through the Collector, Bikaner. It is also pertinent to submit here that when the deferred payment loan has not been paid by the purchaser M/s. Maheshwari Mills, Bikaner then there is no surplus left till the amount is recovered with interest through the Collector. Hence, the Cee. Tee. Industries cannot claim any surplus from the corporation subsequently.
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> 8.That the petitioner has referred the judgment dated 4.11.1992 rendered by this Hon'ble Court in SBCW no.4314/92. A bare perusal of the order rendered by this Hon'ble Court in the said writ petition would show that the petitioner was/is not entitled for any amount unless and until entire sale consideration is received from the successive purchaser and facts stated hereinabove makes it clear that still amount is outstanding. In such circumstances, no payment can be given to the petitioner."

From reading of the reply to the contempt petition, relevant portion of which is reproduced above, it reveals that according to the respondents the petitioner is not entitled to get any amount. From the stand taken by the respondents it is clear that a dispute between the parties exists with regard to

entitlement of payment of amount. The respondents have not admitted the claim made by the petitioner. In view of it, it cannot be said that the respondents committed any act which may be termed as a deliberate and wilful non-compliance of the directions given by this Court. In consequent thereto, this petition for initiating contempt proceedings against the respondents fails and, therefore, is dismissed. Rule issued is discharged.

(GOVIND MATHUR),J.

kkm/ps.